



The Office of Secretary of State

Brian P. Kemp
SECRETARY OF STATE

Vincent R. Russo
General Counsel

NOTICE (SEC-2012-13)

RE: Amendment of Rule 590-4-2-.08, entitled "Invest Georgia Exemption."

TO ALL INTERESTED PERSONS AND PARTIES:

Pursuant to the Official Code of Georgia Annotated, O.C.G.A. §§ 10-5-70 and 50-13-4, notice is hereby given that the Commissioner of Securities of the Office of the Georgia Secretary of State, (hereinafter "Commissioner") proposes to amend Rule 590-4-2-.08, entitled "Invest Georgia Exemption."

Attached with this notice is a synopsis and exact copy of the proposed amended rule. The rule is being amended under the authority of O.C.G.A. §§ 10-5-70 and 10-5-74. The Commissioner finds that amendment of the attached rule is necessary and in the public interest.

The Assistant Commissioner, in accordance with O.C.G.A. § 10-5-70(f), shall consider the adoption of the proposed rule amendment at 9:15 a.m., on December 7, 2012, in Room 810, Suite 802 West Tower at 2 Martin Luther King, Jr. Drive, S.E., Atlanta, Georgia 30334.

Copies of this notice, including the synopsis and exact copy of the proposed rule, are available for review on the Securities Division's web page at <http://www.sos.ga.gov/securities>. Interested persons may submit data, views or arguments in writing to the Commissioner. The Commissioner must receive all comments regarding the proposed rules from interested persons no later than 5:00 p.m. on December 3, 2012. Written comments may be sent to: Commissioner of Securities, Securities Division, 2 Martin Luther King, Jr. Drive, S.E., 802 West Tower, Atlanta, Georgia 30334. Written comments may be sent via facsimile to (770) 463-4921, or submitted electronically to SECRules@sos.ga.gov. Please reference "SEC-2012-13" on all comments.

For further information, please contact Tom Zagorsky at (404) 463-0344.

This 2nd day of November, 2012.



Vincent R. Russo
Interim Assistant Commissioner of Securities

SYNOPSIS AND MAIN FEATURES OF PROPOSED AMENDMENT TO RULE 590-4-2-.08 ENTITLED “INVEST GEORGIA EXEMPTION” BY THE COMMISSIONER OF SECURITIES OF THE OFFICE OF THE GEORGIA SECRETARY OF STATE

Synopsis:

The purpose for amending Rule 590-4-2-.08 is to clarify that the exemption from broker-dealer registration articulated in this Rule applies to all individuals who represent an issuer in an offer or sale made in accordance with this Rule. Minor typographical errors have been corrected, as well.

Main Features:

The proposed rule amendment adds subsection (5) to clarify that the exemption from the registration requirements of Section 10-5-30 only applies to certain persons and entities that, in representing an issuer in an offer or sale, do not engage in certain specified activities. Typographical errors in subsections (1)(g) and (1)(h) have been corrected.

Text of Rule:

590-4-2-.08 Invest Georgia Exemption

(1) The offer or sale of a security by an issuer shall be exempt from the requirements of Article 3 and Section 10-5-53 of the Act, and each individual who represents an issuer in an offer or sale shall be exempt from the requirements of Section 10-5-30, if the offer or sale is conducted in accordance with each of the following requirements:

(a) The issuer of the security shall be a for-profit business entity formed under the laws of the state of Georgia and registered with the Secretary of State.

(b) The transaction shall meet the requirements of the federal exemption for intrastate offerings in section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. § 77c(a)(11), and SEC rule 147, 17 C.F.R. 230.147.

(c) The sum of all cash and other consideration to be received for all sales of the security in reliance upon this exemption shall not exceed \$1,000,000, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance upon this exemption.

(d) The issuer shall not accept more than \$10,000 from any single purchaser unless the purchaser is an accredited investor as defined by rule 501 of SEC regulation D, 17 C.F.R. 230.501.

(e) All funds received from investors shall be deposited into a bank or depository institution authorized to do business in Georgia, and all the funds shall be used in accordance with representations made to investors.

(f) Before the use of any general solicitation or the twenty-fifth sale of the security, whichever occurs first, the issuer shall file a notice with the Commissioner in writing or in electronic form. The notice shall specify that the issuer is conducting an offering in reliance upon this exemption and shall contain the names and addresses of the following persons:

1. The issuer;
2. All persons who will be involved in the offer or sale of securities on behalf of the issuer; and
3. The bank or other depository institution in which investor funds will be deposited.

_(g) The issuer shall not be, either before or as a result of the offering, an investment company as defined in section 3 of the Investment Company Act of 1940, 15 U.S.C. § 80a-3, or subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78m and 78o(d).

_(h) The issuer shall inform all purchasers that the securities have not been registered under the Act and that the securities are subject to the limitation on resales contained in subsection (e) of SEC Rule 147, 17 C.F.R. 230.147(e).

(2) Offers and sales to controlling persons. This exemption shall not be used in conjunction with any other exemption under these rules or the Act, except for offers and sales to the following persons, who shall not count toward the limitation in paragraph (1)(c):

(a) An officer, director, partner, or trustee or an individual occupying similar status or performing similar functions; or

(b) A person owning 10 percent or more of the outstanding shares of any class or classes of securities

(3) Disqualifications. This exemption shall not be available if the issuer is subject to a disqualifying event specified in Rule 590-4-2-.06.

(4) The exemption authorized by this section shall be known and may be cited as the “Invest Georgia Exemption.

(5) “Individual,” for the purpose of paragraph (1) of this Rule, means a natural person residing in the State of Georgia, or a corporation, trust, partnership, association, or any other legal entity duly organized under the laws of the State of Georgia, that does not:

- (a) offer investment advice or recommendations;
- (b) solicit purchases, sales, or offers to purchase the securities exempted by this Rule;
- (c) compensate employees, agents, or other persons for the solicitation of purchases, sales, or offers to purchase the securities exempted by this Rule; or
- (d) take custody of investor funds or securities.

Authority: O.C.G.A. Secs. 10-5-3, 10-5-10, 10-5-11, 10-5-12, 10-5-30(b)(1)(H), 10-5-70.